IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal Lodging No.336 of 2005
in
Notice of Motion No.2998 of 2004
in
Suit No. 2937 of 2004
Tulsidas V Patel Pvt Ltd..... appellant
vs
Mr Subhash Salvi & ors..Respondents

Mr Janak Dwarkadas with Mr. Andhyarujina i/b V V Juris for appellants

Mr.S.G.Deshmukh with Mr.R. M Patwae for respondent no.l

Mr.S.R.Nargolkar Sr Counsel with Milind More for State respondent nos 3 and 4.

CORAM: A.P.SHAH & S.J.VAZIFDAR JJ.

Dated 13.4.2005

P.C:

. Heard the learned counsel for the parties.

. Admittedly the State Government is the owner of the suit land. The appellant claims that he has entered upon the land in l969 and since then he has been in continuous and uninterrupted possession of the same. He also claims that he has entered upon the land only with a view to prevent further encroachment upon the land. In support of his case he relies upon the Commissioner’s report submitted pursuant to the order passed by the City Civil Court. This report merely shows that the appellant

has constructed a cabin on the land and he has put a board. Surely Commissioner's report cannot be treated as evidence of exclusive possession of the appellant. In any event the appellant is a rank trespasser as far as the suit land is concerned and he is not entitled to any interim reliefs on the basis of his alleged possessory right.

. Mr.Naphade learned counsel appearing for respondent nos. 3 and 4- State Government and Competent Authority states that the State will not carry any construction upon the suit land without taking permission from this court in PIL Nos 206 of 2005 with PIL No. 300 of 2002, with PIL No. 482 of 2005, PIL 598 of 2005, and PIL 6ll of 2005, etc. pertaining to the said land. The learned counsel for the developers also undertakes not to construct upon the land without prior permission of the court.

. Subject to above appeal stands dismissed.

. Mr.Dwarkadas at this stage applies for continuation of status quo. Application is rejected.